

Article 4 Direction – Evidence – Dudley Metropolitan Borough Council

Background

1. This paper considers the evidence and options available to Dudley Metropolitan Borough Council in respect of the use of an Article 4 direction to manage the future creation of new Houses in Multiple Occupation (HMO's) that can accommodate between 3 and 6 unrelated people.
2. Currently under planning legislation HMO's are divided into two uses classes, these are most commonly known as 'Smaller' and 'Larger' HMO's. A 'Smaller' HMO is defined under Class C4 of the Town and Country Planning (Use Classes) Order 1987, which sets out that this is "Use of a dwellinghouse by not more than six residents". Currently the Town and Country Planning (General Permitted Development) Order (2015) allows the change of use of a single-family dwelling house (C3) to a Small HMO (C4) without requiring planning permission. In essence this means that a house is able to be converted, or used, as a smaller HMO without requiring any consent if it is to be used by no more than six unrelated individuals.
3. Larger HMO's that can accommodate more than 6 people are regarded as 'Sui Generis' this means that they are classified as falling within a use class of their own, and subsequently no change of use rights are afforded. This means that Larger HMO's already require planning approval, and any Article 4 direction considered by the Council would apply solely to the creation of smaller HMO's.
4. On the 11th October 2021, Councillors voted on a motion that "Given the negative impact that the uncontrolled proliferation of HMOs can have on a geographical area..... 1. The Director for Regeneration and Enterprise be requested to gather the evidence base required for a decision to be made on the introduction of an Article 4 Direction". As such Officers were tasked with gathering necessary evidence to enable Councillors to determine whether additional controls are required in respect of Smaller HMO's. As part of this report, evidence will be presented to enable councillors to determine three options;

Option 1: A Borough wide Article 4



Option 2: Individual Article 4 Directions for areas identified as in greatest need, or where there are existing concentrations of HMO's.

Option 3: no article 4 directions introduced across the Borough.

5. In this paper the Council has used a range of data sources to 'build up' an evidence base to establish a general understanding of the trends, spatial distribution and density of HMOs across the borough. The sources of information include data from Council tax records, HMOs licensed under the Housing Act 2004, Anti-Social Behaviour records, Police Crime records and planning applications/planning enforcement data related to HMOs. The data and its interpretation should be used with caution due to under reporting, differing property definitions and comparison of differing data sources. However, this data clearly demonstrates general trends and patterns of distributions related to HMOs and housing need in the Dudley Borough.

National Planning Policy and Legislation

6. Article 4 Directions are afforded through Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015. An Article 4 Direction enables Local Planning Authorities to remove specific Permitted Development Rights, such as that afforded under Schedule 2, Part 3, Class L (Small HMO's to dwellinghouses and vice versa). There are two approaches to the implementation of article 4 directions, those without immediate effect and those with immediate effect, this will be addressed later within this report.
7. In respect of the use of Article 4 Directions, paragraph 53 of the National Planning Policy Framework sets out the following:
 - be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)
 - in all cases, be based on robust evidence, and apply to the smallest geographical area possible.
8. In this regard if Option 1 is to be taken forward the Council must be satisfied that the evidence gathered in support of this approach is robust and demonstrates that no smaller area would be appropriate.

Local Policy –

9. Dudley Metropolitan Borough Council currently has no specific policies that seek to directly manage the location and nature of Houses of Multiple Occupation. However, in considering this framework it should be noted that,



to date out of 23 applications submitted to the Local Planning Authority which are related to the conversion of properties to Larger HMO's 8 have been approved, 8 refused and 6 withdrawn. A summary of refusal reasons is as follows:

- Parking (insufficient provision)
- Fear of crime – (exacerbating the existing issues within the locality).
- Amenity of future occupiers (inadequate internal living environments)
- Noise – (Inadequate information regarding impact of surrounding noise sources on future occupiers)

10. Relevant policies in these cases were as follows:

- a. National Planning Policy Framework (2021)
 - i. Paragraph 92 and 130 (fear of crime)
- b. Black Country Core Strategy (2011)
 - i. CSP4
 - ii. HOU2
 - iii. ENV3
 - iv. Tran 2
- c. Dudley Borough Development Strategy (2017)
 - i. S6
 - ii. L1

11. Notwithstanding this, the draft Black Country Plan which is currently under review includes a specific policy related to House's of Multiple Occupation. Given the early stages of the Black country Plan at the time of writing this report no weight can be afforded to this policy as this may be subject to review including amendments or removal from the plan. Within the Draft Black Country Plan, the justification for the inclusion of a specific policy is summarised as follows:

- Due to increasing house prices, seeing an increase in demand for HMO accommodation.
- Concentrations of HMO's within neighbourhoods can lead to imbalanced communities by increasing the number of short-term households.
- HMO's can give rise to levels of activity higher than that of a single family dwelling house.
- The Black Country SHMA (2021) signalled greatest demand in the future will be for homes of three bedrooms or more. Approach to be taken to ensure sub-division of existing properties do not impact upon the overall supply of family-sized dwellings.



12. As such at this time, there is no specific local policy seeking to manage the proliferation, location or type of HMO accommodation across the borough that would directly require the introduction of any form of Article 4 direction.

The wider context

13. In understanding the potential future pressure across the borough for HMO accommodation there are two important aspects to consider. The first being the need for this type of accommodation within the borough and the second being the approach of neighbouring authorities, whereby if neighbouring authorities have sought to restrict and control the provision of HMO's within their Authority Areas this may contribute to an increase in Private Rented Sector (PRS) Landlords seeking to provide HMO accommodation in area's where permitted development rights remain.

HMO Need – borough projections

14. In regards to the need for HMO accommodation within the borough, it is understood that the private rented sector is a significant component of the housing market within Dudley borough. It accounts for between 12 to 18% of all homes and has doubled in size over the past decade.

15. Furthermore, HMO accommodation is generally recognised as meeting a specific need in terms of type and tenure of accommodation as shared accommodation of this nature can be more affordable for single persons. For instance, under Universal Credit & Housing Benefit rules, the rate of “housing costs” for someone, single, and under the age of 35¹, is normally restricted to the Shared Accommodation Rate (SAR) when they are in the private rented sector accommodation. The Shared Accommodation Rate only provides for a

¹ there are some exceptions to the under 35's rule that apply to single people where they are:

- in receipt of the Severe Disability Premium because of their entitlement to PIP (Daily Living) or DLA (Care);
- require an extra bedroom for the use of a non-resident carer, providing overnight care;
- care leavers up to the age of 18-21 who were in care at the age of 16;
- aged 25-34 who have spent at least three months in a homeless hostel/hostels specialising in rehabilitating and resettling within the community; and
- ex-offenders who present a risk of serious harm to the public and are subject to active multi-agency risk management under the Multi Agency Public Protection Arrangements (known as MAPPA) to be rehabilitated back into the community (those aged 25-34 only in HB and anyone under 35 in UC).]



single room in a shared house in someone's area, even if they do not live in shared housing.

16. In terms of the borough's need, Data from 1st Jan 2022 establishes the following:

- 1,855 people under 35-years old* on the waiting list
- 1,603 people under 35-years old*, in need of 1 & 2 bed homes on the waiting list
- 546 people under 35-years old*, in need of 1 & 2 bed homes, in Dudley Central, Brierley Hill Central, Stourbridge Central, Sedgley Central, Halesowen Central, Lye, and Netherton on the waiting list

17. As demonstrated above, when considering the Borough's own waiting lists, and in consideration of the funding constraints of the SAR, it is reasonable to assume that HMO accommodation will continue to be required in a large number of areas across the borough, and it has also been demonstrated that this need is not centred in one specific area of the borough. As such it should be recognised that the implementation of a Borough Wide Article 4 should not seek to stop the provision of HMO's, but enable more control over their location and concentration.

Other Authorities

18. As the private rented sector continues to increase in size it is anticipated that if other areas surrounding the borough seek to manage and control the provision of smaller HMO provision, then PRS landlords, may inevitably look to other areas where permitted development rights remain for changes of use, and where a need for such accommodation provides a more stable source of income. There availability of data has not enabled this hypothesis to be proven however and should not be regarded as sufficient evidence to support the introduction of an Article 4 direction across the borough.

Birmingham City Council

19. Historically Birmingham has had an area specific Article 4 direction since September 2014 which covered Selly Oak, Harborne and Edgbaston. Following Consultation and a period of 12 months for Landlords to declare HMO's a City Wide Article 4 direction came in to effect on the 8th June 2020, this removed the aforementioned Permitted Development Rights for conversion of single family dwellinghouses (C3) to Smaller Houses of Multiple Occupation (C4).



20. The reasons for the introduction of a City-wide Article 4 related largely to the distribution of HMO's across the City, in which there were found to be significant concentrations in particular areas of the city, with an even spread of HMO's in other areas of the City.

21. It was determined that a City-Wide Article 4 would enable a consistent and comprehensive approach to be applied to manage the distribution of HMOs across the city.

Wolverhampton City Council

22. A City-wide Article 4 direction was confirmed by Wolverhampton City Council on the 13th September 2017. It is not clear why the approach for a City Wide Article 4 was taken, however, it should be noted that the Article 4 adoption preceded updated guidance regarding geographical areas in the adoption of Article 4 directions.

Other adjoining boroughs

23. Aside from the above two Council's no other adjoining Council's have yet to adopt Article 4 Directions in respect of conversion of Small Family Dwellinghouses (C3) to Smaller Houses of Multiple Occupation (C4).

Article 4 directions – what is required/ stages

24. The process for the service of an article 4 direction is set out within Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015, the requirements of the order have been observed in the preparation of the Council's Statement of Community Involvement. The process is summarised as follows:

– that notice of any direction made under article 4(1) of this Order must be undertaken as soon as practicable after the direction has been made, in the following forms: -

(a) Local Advertisement

(b) By site display in no fewer than 2 locations within the area to which the direction relates

- The minimum period of time for any notices to be displayed is for a period of 6 weeks.

- Although exceeding both local and national requirements it may be of benefit to consult all planning agents and applicants that have submitted an



application for a HMO in the last 2 years, alongside all ward Councillors across the borough.

25. In respect of the consultation, regard is also had to Schedule 3 Para. 1 (1)(c) which sets out that notice should be served on the owner and occupier of every part of the land within the area of site to which the direction relates. However, exceptions are given to this requirement within paragraph (2) which sets out that the LPA need not serve notice on an owner or occupier if it is considered that the number of individuals within the area to which the direction relates would make individual service impracticable. Given the areas being considered it is considered that it would not be practical to serve notice on all owners or occupiers of every C3 Single Family dwelling house within the borough, or within any respective areas considered appropriate for adoption of an Article 4.

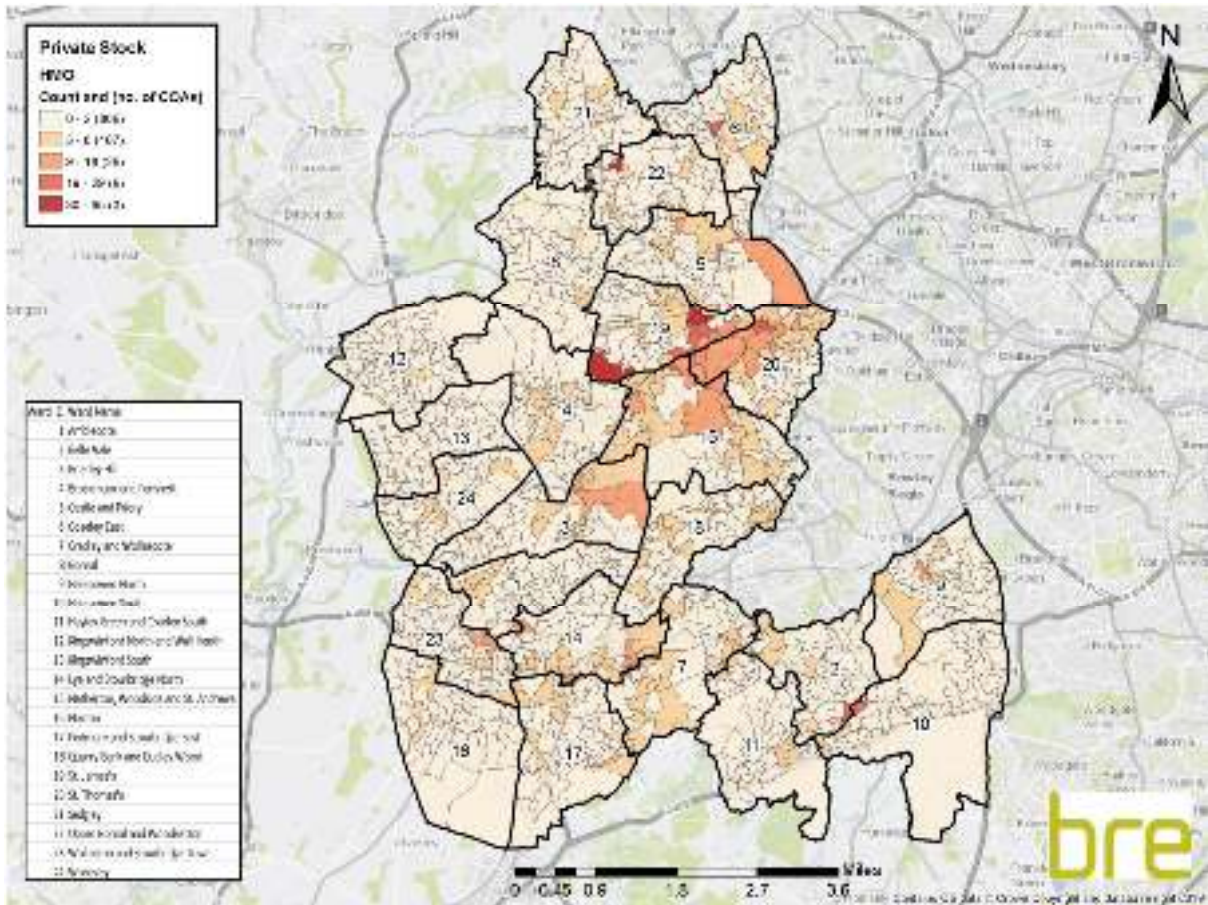
Evidence

Current HMO spread across the borough:

26. Dudley MBC commissioned BRE to assist with gathering intelligence on housing stock across the borough, with a particular emphasis on private rented stock. The evidence gathered through this research ascertained that there is an estimated 2,208 HMO's currently in use across the borough, with approximately 300 of these requiring a Mandatory License as they contain 5 or more tenants.

Map 1 demonstrates the overall spread of HMO's across the borough:





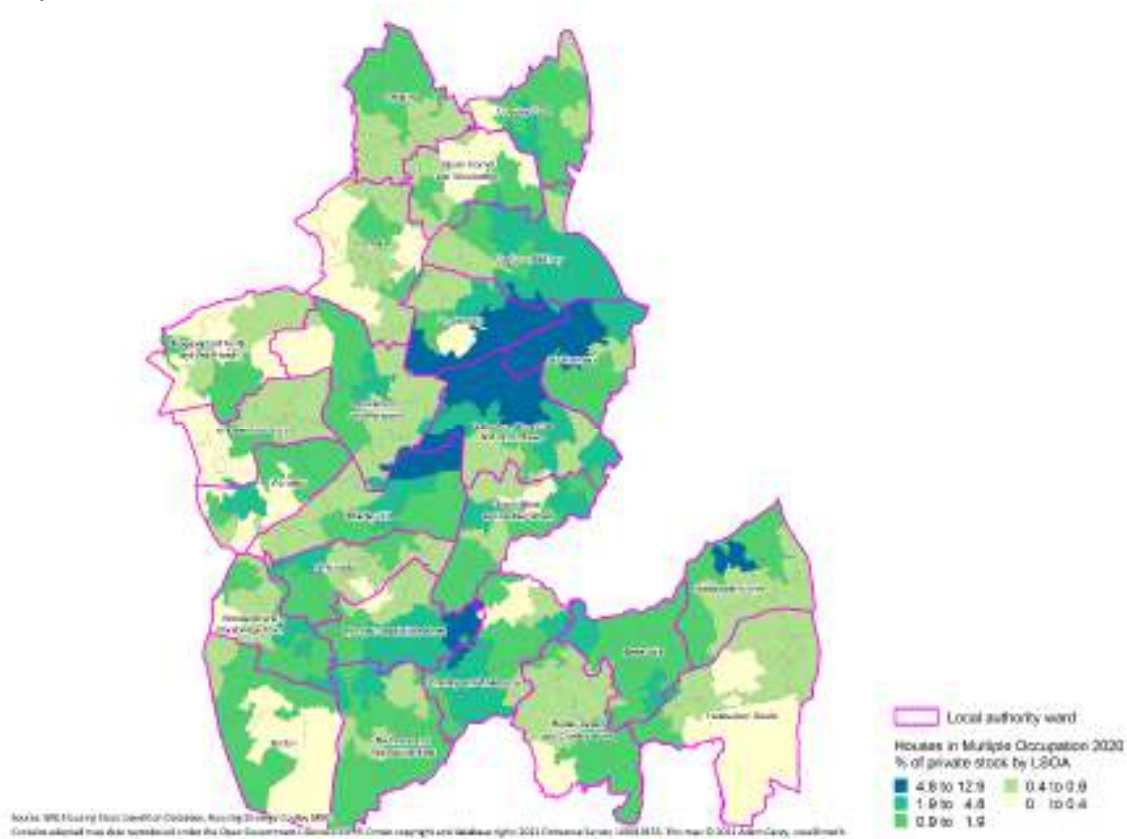
Map 1 - Spread of HMO's across the borough (Count)²

27. Map 1 demonstrates the overall spread of HMO's across the borough, with notable concentrations within Wards surrounding Dudley Town Centre. However, it is also evident that there are concentrations across the borough, specifically in proximity of Stourbridge Town Centre, Lye, Halesowen Town Centre, Shell Corner, Brierley Hill, Coseley and Gornal, with smaller concentrations across the borough. Lowest concentrations are seen to the North East of the borough. Map 2, below, helps to demonstrate the concentrations of HMO's in areas as a percentage of total Private Housing Stock. It demonstrates that in those areas with the highest concentrations of

² BRE (March 2020) – BRE integrated dwelling level housing stock modelling and database for Dudley Metropolitan Borough Council.

HMO's these form between 4.8% and 12.9% of total private housing within that area.

Map 2 -



Map 2 - Spread of HMO's across the Borough (Percentage of private stock)³

HMO's and perceived issues – Evidence

28. As part of the Council's motion it is noted that the main concern raised at Cabinet on the 11th October 2021 was *"the negative impact that the uncontrolled proliferation of HMO's can have on a geographical area"*. It is understood that there are often concerns with regards to the use of properties as HMO's. From the experience of the Local Planning Authority, the most commonly reported problems associated with some HMO's are:

- Anti-social behaviour
- Noise
- Overcrowding

³ BRE (March 2020) – BRE integrated dwelling level housing stock modelling and database for Dudley Metropolitan Borough Council.

- Inadequate living conditions
- Deterioration of streetscene due to poor maintenance of properties
- Litter and poor management of refuse
- Parking issues

29. It is reasonable in a number of the above issues to determine that the prevalence of these issues is not something that would normally be expected as part of a single-family dwelling house. Whilst it is generally accepted that larger HMO's would have proportionally greater impacts on surrounding occupants through things like increased activity associated with a higher level of occupants, and differing patterns of behaviour between those individuals, greater potential for noise and disturbance. In isolation individual smaller HMO's may not result in significant or detrimental harm, however, the cumulative effect of an over proliferation of HMO's in smaller area may result in the perceived issues becoming more apparent.

30. Paragraph 130 of the National Planning Policy Framework sets out that Planning Policies and Decisions should "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience".

31. Data was provided by West Midlands Police and The Council's Anti-Social Behaviour team in order to help demonstrate whether there is a link between HMO's, Anti-Social Behaviour and Crime.

32. For data protection purposes, the data provided was not linked to specific HMO addresses and instead the data was compared by Ward in order to understand whether there was any correlation between number of HMO's in an area and Crime Levels. It should be noted that this may not demonstrate a causal link between HMO's and Crime. As evidenced on Map 1 above, the highest concentrations of HMO's are, in some cases in town Centre/ District Centre Locations, such as Dudley Town Centre (St James's/ St Thomas's Ward), it may therefore be that the locations themselves are susceptible to higher numbers of crimes, and as such this evidence should not be considered in isolation. The below table demonstrates the ranking of each ward by total no. of HMO's and Total No. of Crimes, as can be seen, it does



not necessarily correlate that an area with the highest number of HMO's (Rank no. 1) has the highest number of crimes (Ranked No.1).

| Ward Name | HMO Total - Ranking (Highest to Lowest No.) | Total Recorded Crime - Ranking (Highest to Lowest No.) |
|-------------------------|---|--|
| Brierley Hill | 4 | 1 |
| St James's | 1 | 2 |
| Castle and Priory | 7 | 3 |
| St Thomas's | 2 | 4 |
| Netherton, Woodside and | 3 | 5 |
| Brockmoor and Pensnet | 14 | 6 |
| Coseley East | 13 | 7 |
| Lye and Stourbridge Nor | 5 | 8 |
| Quarry Bank and Dudley | 12 | 9 |
| Upper Gornal and Wood | 21 | 10 |
| Belle Vale | 9 | 11 |
| Wollaston and Stourbrid | 11 | 12 |
| Gornal | 22 | 13 |
| Cradley and Wollescote | 6 | 14 |
| Halesowen North | 8 | 15 |
| Halesowen South | 18 | 16 |
| Sedgley | 17 | 17 |
| Wordsley | 16 | 18 |
| Pedmore and Stourbridg | 10 | 19 |
| Amblecote | 15 | 20 |
| Norton | 20 | 21 |
| Kingswinford North and | 23 | 22 |
| Hayley Green and Cradle | 19 | 23 |
| Kingswinford South | 24 | 24 |

Table 1- Ranking of HMO's Vs Total Crime (note this data shows rank only and not total numbers)

33. A correlation between HMO's and Elevated Crime levels was noted in a number of specific crime groups, contributing to a Strong Positive Correlation between HMO Total vs Total Recorded Crime. The Strongest Positive was HMO totals vs Drug Offences. Similarly, a strong correlation was found between HMO Totals Vs ASB Casework (this is cases that the Council's Anti-social behaviour team have in a ward).

34. Whilst it is accepted that the availability of data does not provide a causal link between HMO's and Crime, it does indicate that there are generally higher crime rates in areas where there is a concentration of HMO's. Any such introduction of an Article 4 direction would therefore need to consider the any potential increase in concentrations within different areas of the borough. For instance, it is noted that there generally is highest concentrations of HMO's surrounding Dudley town Centre and it's vicinity. If an area based Article 4 direction was to be introduced in areas with the greatest concentrations then there is, based upon the evidence available, the potential for increased concentrations to occur surrounding these localities as demonstrated in Map 1



above, and with this based upon the available crime data, there may potentially lead to an increase in crime.

35. However, it is accepted that in areas with lower numbers of HMO's, and reduced concentrations, there is generally a lower crime rate.
36. The above data indicates that there are generally higher levels of anti-social behaviour complaints, and crime rates in areas with highest concentrations of HMO's. This indicates that in areas where there is an over proliferation, or higher density of HMO's the level of ASB and Crime may have an impact upon the amenity of adjoining occupiers through increased noise, disturbance and fear of crime. It should be noted that due to the availability of data, this may be a causal link between HMO's and there may be any contributory factors to crime in the localities. For instance crimes generally associated with town centre locations. Notwithstanding this, the evidence does provide correlations HMO's concentrations and crime and as such the introduction of an Article 4 Direction would enable the Local Planning authority to better ensure that the future delivery of HMO's does not give rise to higher concentrations and any associated issues with these.
37. It must also be noted that not all of the impacts of HMOs will be negative, and maintaining an appropriate proportion of HMOs in an area will provide more mixed and diverse communities, increase custom for local businesses, provide a greater local workforce and provide a greater choice of accommodation for local residents.

Boroughs Need – Family Sized Accommodation against 1 bedroom or shared properties.

38. As previously demonstrated, there is, undeniably a need for shared accommodation within the borough, as evidenced by existing housing waiting lists discussed in paragraph 14 of this report. However, in understanding the overall spread of HMO's across the borough the overall impact upon the continued provision of such tenure needs to be considered against the existing and projected need for other house types and sizes. The conversion of a dwelling into a smaller HMO under permitted development rights does, in effect, result in the loss of 3,4 or 5 bedroom dwellings.



39. The below tables, taken from the Black County Housing Market Assessment Final Report (2021) demonstrate the projected need for dwelling sizes over the next 19 years, as follows:

| Table 2 Size of new owner-occupied accommodation required in Dudley over the next 19 years | | | | |
|---|---------------------------------|--------------------------|------------------------|-----------------------------|
| <i>Size of home</i> | <i>Base size profile (2020)</i> | <i>Size profile 2039</i> | <i>Change required</i> | <i>% of change required</i> |
| One bedroom | 2,121 | 3,528 | 1,407 | 22.6% |
| Two bedroom | 17,698 | 19,389 | 1,691 | 27.2% |
| Three bedroom | 52,653 | 55,006 | 2,353 | 37.9% |
| Four or more bedrooms | 19,352 | 20,115 | 762 | 12.3% |
| Total | 91,824 | 98,037 | 6,213 | 100.0% |

Table 2 – Size of new owner-occupied accommodation required in Dudley over the next 19 years (HDH Planning and Development, March 2021)

| Table 3 Size of new private rented accommodation required in Dudley over the next 19 years | | | | |
|---|---------------------------------|--------------------------|------------------------|-----------------------------|
| <i>Size of home</i> | <i>Base size profile (2020)</i> | <i>Size profile 2039</i> | <i>Change required</i> | <i>% of change required</i> |
| One bedroom | 2,984 | 3,466 | 482 | 18.5% |
| Two bedroom | 6,033 | 6,726 | 692 | 26.6% |
| Three bedroom | 6,401 | 7,278 | 878 | 33.8% |
| Four or more bedrooms | 1,195 | 1,743 | 548 | 21.1% |
| Total | 16,613 | 19,212 | 2,600 | 100.0% |

Table 3 - Size of new private rented accommodation required in Dudley over the next 19 years (HDH Planning and Development, March 2021)

| Table 4 Size of new Social Rent/Affordable Rent required in Dudley over the next 19 years | | | | |
|--|---------------------------------|--------------------------|------------------------|-----------------------------|
| <i>Size of home</i> | <i>Base size profile (2020)</i> | <i>Size profile 2039</i> | <i>Change required</i> | <i>% of change required</i> |
| One bedroom | 7,537 | 7,968 | 432 | 25.7% |
| Two bedroom | 8,027 | 8,352 | 325 | 19.3% |
| Three bedroom | 9,628 | 9,974 | 346 | 20.6% |
| Four or more bedrooms | 808 | 1,387 | 578 | 34.4% |
| Total | 26,000 | 27,681 | 1,681 | 100.0% |

Table 4 - Size of new Social Rent/Affordable Rent required in Dudley over the next 19 years (HDH Planning and Development, March 2021)

40. Across the Private Rented Sector and Owner/ Occupied Sectors Table 2 and Table 3 demonstrate that over the next 19 years the greatest increase in housing stock required falls is for new three-bedroom properties. This indicates that consideration will need to be had to ensuring that the provision of HMO accommodation does not impede upon the need of three-bedroom properties.

41. Table 4 demonstrates a different need in respect of Social Rent/ Affordable Rent, and indicates that the greatest need is instead in 4-bedroom properties, and as such it is also considered that the introduction of an Article 4 direction would also help to manage the future provision of properties of this size.

42. Whilst it is accepted that Shared accommodation in the form of HMO's is not included within these figures, the above data is useful in demonstrating the overall need for various sizes and tenures across the borough.

Area Specific Need

43. As demonstrated above across the Dudley Borough there greatest need for dwellings in the future arises in 3 and 4 bedroom properties. This data has been broken down to demonstrate the need across the borough at a more localised level.



| Table 4 – Area specific need required over the next 19 years – Highest Need per tenure (House Size – Bedrooms) | | | | |
|---|----------------|----------------|------------------|-------------------------|
| | Owner Occupied | Private Rented | Shared Ownership | Social/ Affordable Rent |
| North Dudley | 3 | 2 | 2 | 3 |
| Central Dudley | 3 | 2 | 2 | 4+ |
| Brierley Hill | 1 | 2 | 2 | 4+ |
| Stourbridge | 3 | 3 | 1 | 4+ |
| Halesowen | 3 | 3 | 3 | 4+ |

Table 5 – Highest Need – house Size (total beds) by area, (HDH Planning and Development, March 2021)

44. It is acknowledged that there is a variety of sizes across the borough within different tenures that will have the greatest need over the next 19 years. However, the only area's where the greatest need for a single bedroom dwelling is Brierley Hill (Ownership) and Stourbridge (Shared Ownership). Given the tenures, it is unlikely that the introduction of an article 4 direction would detrimentally impact the availability and provision of 1 bedroom properties in these locations.
45. When comparing the above data to the current provision of HMO's across the borough it is evident that in areas with the highest numbers of HMO's, the future need is not necessarily greatest for single occupancy units.
46. Given the general spread of need across the borough, whereby there is a general mix of need for 2 and 3 bedroom dwellings across the borough, particularly in the private rented sector, the introduction of an Article 4 may help to ensure that any conversion of residential dwellings does not result in the loss of much needed family sized dwellings.

Geographical Area and consideration of Options

47. This section considers the opportunities and constraints in applying different options that have been considered by officers. These options have been identified following analysis of the above data, and in regards to the relevant policy and legislative requirements.
48. The two geographical Options to consider are a Borough Wide article 4 Direction, or an Area Specific. The final option to consider would be for no Article 4 direction to be implemented.



49. It is notable based on data that there are a number of key areas with higher concentrations of HMO's, these being those areas surround Dudley Town Centre, to the North of Brierley Hill, Lye, and Halesowen North. However, there also appears a general pattern that the spread of HMO's around these area's is also higher, suggesting that if an area based article 4 was introduced around those areas with highest concentrations, that this would potentially lead to an increase in the provision of HMO's outside of these areas.
50. Additionally, given the location of the areas with the highest concentrations of HMO's, which are situated at different points across the borough the geographical context would be varied, and the smallest geographical area would need to include either the four separate areas, or one larger are covering all four. If all of these areas were to be considered for area specific article 4 then small pockets outside of these areas would likely remain. Given the evidence that the areas surrounding the highest HMO concentration also have high levels of HMO (as a percentage of housing stock), it is considered that an Article 4 direction would need to ensure that the boundaries would not result in a detrimental increase in HMO provision in the areas surrounding this.
51. As demonstrated in the supporting evidence above, whilst there is a clear need for Shared Accommodation, 1 Beds and 2 Beds across the borough, as demonstrated by Dudley Housing waiting list and recent HMA. However, this need is not reserved to one specific area of the borough, and based upon the trends noted above, if an Article 4 direction were limited to the defined Area's, this would potentially push the demand for HMO accommodation into peripheral zones that are currently characterised by family housing. Whilst this in itself is not an issue, regard must also be had to the overall Housing Need across the borough, where the future needs are not limited to single occupancy households (or shared), whereby it has been demonstrated that certainly within Private Ownership and Rent, the greatest need across the borough is for 3 bedroom dwellings, followed by 2 bedrooms. If the 4 areas were included as an article 4, there is a risk that the wider borough Housing Needs would be impacted as a result of overspill HMO accommodation.
52. Whilst it is noted that there remains a high need for 1 bed units in Brierley Hill, given the proliferation and correlation between high levels of HMO's and Crime it is not considered that this need outweighs other matters that would otherwise omit the area from any Article 4.

53. The additional restriction that would result from extending the direction borough wide is considered to be justified by the increased protection it would offer to managing the delivery of accommodation across the borough.

Option 1 – Borough Wide

| Opportunities | Constraints |
|--|---|
| Would enable the approach to HMO provision across the borough to be considered consistently. | Potentially more resources required if consultation exercise creates higher response rate due to wider area. |
| It would ensure that the issues identified are not displaced to different parts of the borough, likely to be those areas immediate to boundaries where an article 4 Direction has been introduced. | Larger number of potential planning applications, and enforcement investigations. |
| Likely to require less resources for introducing an Article 4 direction as opposed to that required for 4 separate Article 4 directions covering those areas with the highest concentrations. | Currently limited local policy to help guide developers/ landlords as to what would be appropriate. Potentially more applications would result in positive recommendations and higher numbers of applications for HMO's going to Development Control Committee. |
| Less resources required for checking whether a property falls within an area covered by an article 4 when responding to enquiries on this matter. | |

Option 2 – Area Specific

The analysis above has This option would involve applying a number of smaller Article 4 directions to cover locations where high numbers and concentrations of HMOs appears to be an issue and where the impacts of them are being felt. that there are currently 4 areas within the borough which have the highest concentrations of HMO's. Dudley Town Centre and it's peripheries is undoubtedly the area with the highest concentration, and there are also concentrations identified in Brierley Hill, Lye and Shell Corner. However, establishing the extent of the boundaries would be difficult due to the pattern and spread of HMO's surrounding these areas. After determining the preferred area boundaries for the Article 4, this would potentially create a displacement of HMO's beyond these.

| Opportunities | Constraints |
|--|--|
| Smaller area would have less impact on resources in terms of planning applications and enforcement | Most appropriate boundary areas need to be carefully determined due to the |



| | |
|---|---|
| investigations in respect of Change of Use from Single Family Dwellings (C3) to Smaller HMO's (C4). | spread of HMO's outside of the areas with greatest concentrations. |
| Would help to reduce future issues in areas currently under pressure due to proliferation of HMO's | Potential displacement of HMO's, concentrations, and their respective issues to area's not covered by the Article 4 direction. |
| | Applying a number of article 4 directions would require greater resources to implement different article 4 areas. |
| | Increased enquiries from landlords/ developers as to whether properties fall within an area with an article 4 direction. |
| | Potential increased pressure on Councillors from constituents who may be aggrieved that their area's have not been included in the article 4 direction. |

Option 3 – No article 4 direction

| Opportunities | Constraints |
|--|--|
| The position would be clear for developers/ landowners of HMOs, as the same national permitted development rules as elsewhere will apply. No resources would be required for providing advice to developers. | Council would not be able to manage or protect the supply of family sized accommodation across the borough. |
| No increase in the number of planning applications submitted. | Increased proliferations of HMOs may continue to grow in areas already experiencing associated issues. |
| | The council would not be able to manage and ensure the quality and appropriateness of HMO accommodation coming forward within the borough. |

Officers Recommendation

In light of the above analysis officers consider that Option 1: a Borough Wide Article 4 direction would be the most appropriate option.

The reasons for this are:



Option 1 – Borough Wide

Analysis indicates that there is a wide distribution across the borough, and does identify areas of notable concentrations. The evidence has also demonstrated that the borough has greatest need for the delivery of 2,3, and 4 Bed homes. In the Private Ownership and Rented sectors this need is highest in respect of 3 bedroom dwellings, followed by 2 bedroom dwellings. The introduction of a borough wide Article 4 would ensure that the Local Planning Authority are better equipped to manage the location and proliferation of HMO's across the borough to ensure that the overall housing needs are not detrimentally impacted in certain areas through loss of family sized accommodation.

Having considered the opportunities and constraints of the various options, if Councillors are minded to introduce an Article 4 direction in respect of Change of Use from C3 to C4, then officers would recommend to Cabinet that a borough-wide Article 4 direction should be applied, as this will enable the most consistent and comprehensive approach for the distribution of HMOs across the borough as this would reduce the risk of concentrations of HMOs being displaced to different areas within the borough and provide a more consistent and comprehensive approach to the management of new HMOs.

However, the timing of the introduction of the article 4 direction is something which should be considered before progressing to the next stage of implementing the Article 4 direction. This is because as of yet, there is not currently a strong policy position that will assist the Local Planning Authority in determining planning applications. As such any subsequent applications would have to be determined against current policies, and this may result in disproportionate numbers of HMO's still being approved without a policy to guide the location and number of properties in the borough. As HMO's have a tendency to generate wider public interest this may see a larger number of applications going to Development Control committee. Notwithstanding this, it would be hoped that at the point of the Article 4 Direction being confirmed (12 months after first notice), that the policy position from the Black Country Plan will be able to hold more weight in the decision-making process.

